

Department of State

§ 9.4

§ 8.11 Records.

(a) The records of an advisory committee consist of all papers and documents which are prepared for or by and/or made available to the committee, and are maintained by the office responsible for the committee. Such records are *inter alia* agenda, drafts, minutes, notices, press releases, reports, studies, transcripts, and working papers.

(b) The Advisory Committee Management Officer maintains the Department's official records relating to the management of all committees.

§ 8.12 Financial records.

Accurate records will be kept by the responsible committee office of all operating and salary costs of a committee. (See instruction item 17 on SF-248.)

§ 8.13 Availability of records.

The records of a committee are to be made available upon request in accordance with the Department's regulations promulgated in accordance with the provisions of the Freedom of Information Act (40 FEDERAL REGISTER 7256-7529, February 19, 1975).

§ 8.14 Public inquiries.

Public inquiries concerning the implementation of the Federal Advisory Committee Act and the management of the advisory committees of the Department should be addressed to the Advisory Committee Management Officer, Management Systems Staff, Department of State, Washington, DC 20520.

PART 9—SECURITY INFORMATION REGULATIONS

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AUTHORITY: E.O. 12958 (60 FR 19825, April 20, 1995) as amended; Information Security Oversight Office Directive No. 1, 32 CFR 2001 (68 FR 55168, Sept. 22, 2003).

SOURCE: 72 FR 30972, June 5, 2007, unless otherwise noted.

§ 9.1 Basis.

These regulations, taken together with the Information Security Oversight Office Directive No. 1 dated September 22, 2003, and Volume 5 of the Department's Foreign Affairs Manual, provide the basis for the security classification program of the U.S. Department of State ("the Department") implementing Executive Order 12958, "Classified National Security Information", as amended ("the Executive Order").

§ 9.2 Objective.

The objective of the Department's classification program is to ensure that national security information is protected from unauthorized disclosure, but only to the extent and for such a period as is necessary.

§ 9.3 Senior agency official.

The Executive Order requires that each agency that originates or handles classified information designate a senior agency official to direct and administer its information security program. The Department's senior agency official is the Under Secretary of State for Management. The senior agency official is assisted in carrying out the provisions of the Executive Order and the Department's information security program by the Assistant Secretary for Diplomatic Security, the Assistant Secretary for Administration, and the Deputy Assistant Secretary for Information Sharing Services.

§ 9.4 Original classification.

(a) *Definition.* Original classification is the initial determination that certain information requires protection against unauthorized disclosure in the interest of national security (*i.e.*, national defense or foreign relations of the United States), together with a designation of the level of classification.

(b) *Classification levels.* (1) *Top Secret* shall be applied to information the unauthorized disclosure of which reasonably could be expected to cause exceptionally grave damage to the national security that the original classification authority is able to identify or describe.

(2) *Secret* shall be applied to information the unauthorized disclosure of which reasonably could be expected to cause serious damage to the national security that the original classification authority is able to identify or describe.

(3) *Confidential* shall be applied to information the unauthorized disclosure of which reasonably could be expected to cause damage to the national security that the original classification authority is able to identify or describe.

(c) *Classification requirements and limitations.* (1) Information may not be considered for classification unless it concerns:

- (i) Military plans, weapons systems, or operations;
- (ii) Foreign government information;
- (iii) Intelligence activities (including special activities), intelligence sources or methods, or cryptology;
- (iv) Foreign relations or foreign activities of the United States, including confidential sources;
- (v) Scientific, technological, or economic matters relating to the national security; which includes defense against transnational terrorism;
- (vi) United States Government programs for safeguarding nuclear materials or facilities;
- (vii) Vulnerabilities or capabilities of systems, installations, infrastructures, projects, plans, or protection services relating to the national security, which includes defense against transnational terrorism; or
- (viii) Weapons of mass destruction.

(2) In classifying information, the public's interest in access to government information must be balanced against the need to protect national security information.

(3) In no case shall information be classified in order to conceal violations of law, inefficiency, or administrative error, or to prevent embarrassment to a person, organization, or agency, to restrain competition, or to prevent or

delay the release of information that does not require protection in the interest of the national security.

(4) A reference to classified documents that does not directly or indirectly disclose classified information may not be classified or used as a basis for classification.

(5) Only information owned by, produced by or for, or under the control of the U.S. Government may be classified.

(6) The unauthorized disclosure of foreign government information is presumed to cause damage to national security.

(d) *Duration of classification.* (1) Information shall be classified for as long as is required by national security considerations, subject to the limitations set forth in section 1.5 of the Executive Order. When it can be determined, a specific date or event for declassification in less than 10 years shall be set by the original classification authority at the time the information is originally classified. If a specific date or event for declassification cannot be determined, information shall be marked for declassification 10 years from the date of the original decision, unless the original classification authority determines that the sensitivity of the information requires that it shall be marked for declassification for up to 25 years.

(2) An original classification authority may extend the duration of classification, change the level of classification, or reclassify specific information only when the standards and procedures for classifying information under the Executive Order are met.

(3) Information marked for an indefinite duration of classification under predecessor orders, such as "Originating Agency's Determination Required" (OADR) or containing no declassification instructions shall be subject to the declassification provisions of Part 3 of the Order, including the provisions of section 3.3 regarding automatic declassification of records older than 25 years.

§9.5 Original classification authority.

(a) Authority for original classification of information as *Top Secret* may be exercised by the Secretary and those officials delegated this authority in